IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WA.No. 1644 of 2007

(***AGAINST THE ORDER IN I.A.NO. 5891 OF 2007 IN WPC.9983/2007 DATED 28.05.2007)***
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APPELLANTS/ PETITIONERS IN IA 5891/2007/PETITIONERS IN W.P.(C)
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1. M/S.THASLEEJ ICE STORAGE, KALLEKAD, SHORANUR ROAD,PALAKKAD-15, REP BY ITS PARTNER P.A.ZUBAIR.

2. M.CHEMBAKAMUTHU,S/O.MARIAPPAN, MARAYIL COMPOUND,PULLEPPADY JUNCTION, ERNAKULAM.

BY ADV. SRI.M.CHATHUKUTTY NAMBIAR

RESPONDENTS/ RESPONDENTS IN IA 5891/2007/ RESPONDENTS IN W.P.(C)
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1. THE KERALA FINANCIAL CORPORATION, VELLAYAMBALAM, THIRUVANANTHAPURAM,REP.BY ITS MANAGING DIRECTOR.

2. THE CHIEF MANAGER, KERALA FINANCIAL CORPORATION, PALAKKAD BRANCH,FIRST FLOOR, CENTURY COMPLEX, MATHAKOVIL STREET,SULTAN PET, PALAKKAD.

3. THE DISTRICT COLLECTOR , PALAKKAD.

4. THE DEPUTY TAHASILDAR (RR) KERALA FINANCIAL CORPORATION, THRISSUR.

R1 AND R2 BY ADV. SHRI T.V. GEORGEL, SC, KFC.
R3 AND R4 BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1644 OF 2007

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Dated this the 12th July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal is directed against the orders passed by the learned single Judge in I.A.No. 5891 of 2007 in W.P.(C)No. 9983 of 2007, dated 28.05.2007.

2. At the outset, we intend to remark that the appellant/petitioner before us is a chronic defaulter in paying off the amounts due to the financial institution-Kerala Financial Corporation. According to the financial institution, as on today, an amount of Rs. 154 lakhs is due from the appellant/petitioner .

3. On several occasions, whenever revenue recovery proceedings were initiated by the Financial Corporation on some pretext or other, the appellant/petitioner was before this court. In one of the petitions filed before this court, he had questioned the revenue recovery proceedings initiated by the respondent. This court had entertained that petition subject to the condition that appellant/petitioner deposits a sum of Rs.25 lakhs. After obtaining the order, the petitioner did not choose to pay off the amounts as ordered by this court, but was successful enough to stay the revenue recovery proceedings for a period of one month. This habit of the appellant/petitioner was continued from time to time. Thereafter, the appellant/petitioner had filed an application for One Time Settlement before the respondent-Financial Corporation. Since that application had not been considered by the respondent-Financial Corporation within a reasonable time, the

appellant./petitioner was before this Court for a direction to the respondent-Financial Corporation to consider his application for One Time Settlement to pay off the amounts due from the appellant/petitioner.

4. This court, while entertaining the Writ Petition had directed the appellant/petitioner to deposit a sum of Rs.20 lakhs on or before 28.03.2007 and a further sum of Rs. 30 lakhs , on or before 23.04.2007.

5. The appellant/petitioner had deposited a sum of Rs. 20 lakhs within the time granted by this court. Since he could not mobilize a sum of Rs. 30 lakhs within the time granted by this court, he had filed an interlocutory application, I.A.No. 5891 of 2007. In that application, the appellant/petitioner had pleaded his financial inability to deposit a sum of Rs. 30 lakhs as ordered by this court within the stipulated time. Therefore, a request was made for extension of time for payment of the aforesaid amount as well as for a direction to the respondent-Financial Corporation to consider his application for One Time Settlement to pay off the amounts due from the appellant.

6. The learned single Judge, in our opinion, has rightly rejected the application. As we have already noticed that the appellant/petitioner is a chronic defaulter in paying off the amounts due to the financial institution-Kerala Financial Corporation. In fact, the financial institution has to borrow money from various other organizations to help and to assist the industrialists and the entrepreneurs. The financial institution has to repay back the amounts borrowed by them to the concerned organizations within the stipulated time with interest. If the amounts are held up by granting interim orders, as sought for by the appellant/petitioner, it would affect the interest of the financial

institution . Keeping this aspect of the matter in view, the learned single Judge has thought it fit to observe that the appellant was expected to, as directed by this court, have deposited a sum of Rs.30 lakhs on or before 23.04.2007, which was a condition imposed for directing the respondent -financial institution to consider the application filed by the appellant/petitioner for One Time Settlement to pay off the amounts due from him.

7. Shri M.C. Nambiar, learned counsel for the appellant/petitioner would vehemently contended before us that under the scheme, the appellant/petitioner is expected to pay off only 10% of the defaulted amount and that the learned single Judge should not have directed the appellant/petitioner to pay a sum of Rs.50 lakhs for consideration of the application filed by the appellant/petitioner for One Time Settlement.

8. In our opinion, this submission of the learned counsel has no merit whatsoever. This court, while exercising its extra ordinary and discretionary jurisdiction and also keeping in view the fact that the appellant/petitioner is a chronic defaulter in paying off the amounts due to the financial institution has thought it fit to direct the appellant/petitioner to deposit a particular amount, so that a direction can be issued to the financial institution to consider the application filed by the appellant/petitioner for One Time Settlement.

9. In our opinion, in the facts and circumstances of the present case, the learned single Judge was fully justified in rejecting the application filed by the appellant/petitioner for extension of time to pay off the amounts, as ordered by this court. In that view of the matter, we do not find any error in the orders passed by the learned single Judge which would call for our

interference. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

10. I.A.No. 569 of 2007 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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